

## 2 Am. Jur. 2d Administrative Law § 566

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### Administrative Law

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### IX. Liability of Administrative Agencies

## § 566. Effect of administrative officer's unreasonable conduct or malice

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Administrative Law and Procedure](#)  117

### A.L.R. Library

[Civil liability of school officials for malicious prosecution, 66 A.L.R.2d 749](#)

[Civil liability of law enforcement officers for malicious prosecution, 28 A.L.R.2d 646](#)

### Forms

Forms relating to liability of officers and agency, generally, see Am. Jur. Pleading and Practice Forms, Administrative Law [\[Westlaw® Search Query\]](#)

Public officials are immune from personal liability for their allegedly unlawful official actions unless the law clearly proscribes the actions they took.<sup>1</sup>In addition, the contours of the right that the official allegedly violated must be sufficiently clear that a reasonable official would understand that what he or she is doing violates that right.<sup>2</sup>If the law at the time of the action was not clearly established, an official cannot reasonably be expected to anticipate subsequent legal developments, nor can the official fairly be said to know that the law forbade conduct not previously identified as illegal.<sup>3</sup>This does not mean, however, that the very action in question must have previously been held unlawful; it means that the unlawfulness of the contested action must be apparent in the light of preexisting law.<sup>4</sup>If the law is clearly established at the time of the action, the immunity defense should generally fail as a reasonably competent administrative officer should know the law governing his or her conduct.<sup>5</sup>The defense should be sustained, however, if the officer claims extraordinary circumstances and can prove that he or she neither knew nor should have known of the relevant legal standard.<sup>6</sup>

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Footnotes

- <sup>1</sup> Anderson v. Creighton, 483 U.S. 635, 107 S. Ct. 3034, 97 L. Ed. 2d 523 (1987).
- <sup>2</sup> Anderson v. Creighton, 483 U.S. 635, 107 S. Ct. 3034, 97 L. Ed. 2d 523 (1987).
- <sup>3</sup> Harlow v. Fitzgerald, 457 U.S. 800, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982).
- <sup>4</sup> Anderson v. Creighton, 483 U.S. 635, 107 S. Ct. 3034, 97 L. Ed. 2d 523 (1987).
- <sup>5</sup> Harlow v. Fitzgerald, 457 U.S. 800, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982).
- <sup>6</sup> Harlow v. Fitzgerald, 457 U.S. 800, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982).

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